IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 22.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal No 997 of 2001

Sulochana ... Appellant(Petitioner in WP 18961/93)

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to
Backward and Most Backward
Welfare Department, Fort St.
George, Chennai-9.

2.The Tahsildar,
Land Acquisition,
Thoothukudi. .. Respondents/Respondents in do)

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 06.09.2000 made in W.P.No18961 of 1993.

(WP NO. 18961/93 presented under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records relating in G.O. Ms. (3D) No. 95 of Backward Classes and Most Backward Classes Welfare Department, Government of Tamil nadu dated 26.07.1993 and to quash the same.)

For Appellant : Ms.Milo for
Mr.P.Rathinadurai

For Respondents : Mr.M.Dhandapani,
Addl. Government Pleader

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

Aggrieved by the order of the learned single Judge dated 6.09.2000 made in W.P.No.18961 of 1993, the writ petitioner/appellant has filed the present appeal.

2. Heard the learned counsel for the appellant as well

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

as the learned Additional Government Pleader for the respondents.

3. It is seen that questioning the land acquisition proceedings initiated by the respondents for the purpose of providing house sites to the Backward Class people, the petitioner has filed the writ petition even at the stage of the notification under Section 4(1) of the Tamil Nadu Land Acquisition Act (hereinafter referred to as "the Act"). Before the learned Judge, it was contended that though the petitioner is the owner of the land and the same was correctly mentioned in the revenue records and patta has been issued in her favour, the notification under Section 4 (1) of the Act has been issued in the name of her husband. It is also contended that apart from publishing the 4(1) notification in the Tamil Nadu Government Gazette, it was published in two newspapers viz., Dinathuthu and Malaimani, which have not been circulated in the village where the property is situated. The learned single Judge, after taking note of the above objection and in view of the fact that the petitioner has approached the Court even at the stage of the 4(1) notification, after observing that the petitioner is free to raise all the above mentioned objections at the time of enquiry under Section 5-A of the Act and that it is for the authority to consider and rectify the defect and proceed further, dismissed the writ petition. The said order was passed by the learned single Judge on 06.09.2000.

4. In the present appeal, the learned counsel appearing for the appellant vehemently raised the very same objections and prayed for quashing of the notification under Section 4(1) of the Act. On the other hand, the learned Additional Government Pleader, by pointing out the reasoning of the learned Judge, contended that inasmuch as the appellant has ample opportunity to raise all these objections at the time of the 5-A enquiry, there is no need to interfere with the order of the learned single Judge and prays for dismissal of the writ appeal.

5. We have considered the rival contentions and perused the relevant materials. It is not in dispute that the petitioner/appellant has approached this Court even at the stage of the notification under Section 4(1) of the Act. It is her claim that though she is the owner of the land in question, which is reflected in the revenue records, the 4(1) notification has been issued in the name of her husband. She has also contended that both the newspapers wherein the 4(1) notification was published have no circulation in the locality where the property is situated. Though both the contentions are acceptable, as rightly observed by the learned single Judge, in view of the fact that the respondents have not commenced the 5-A

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

enquiry, the petitioner/appellant is free to raise all the objections in the said enquiry. Courts have repeatedly held that if defects are pointed out in the enquiry under Section 5-A of the Act, it is mandatory on the part of the Land Acquisition Officer to consider and rectify the defects and proceed further, if he so desires. When such opportunity is available, we are not inclined to interfere with the order of the learned single Judge.

6. In addition to the same, the learned counsel appearing for the appellant has also brought to our notice that a fresh notification has been issued by the Ministry of Shipping, Road Transport and Highways, Government of India, New Delhi. If that be so, if the petitioner is aggrieved of such notice/notification, it is for her to challenge the same by way of a separate proceeding at the appropriate time. In this appeal, we are only concerned with the order passed by the learned single Judge, which is challenged herein.

7. In view of the above mentioned reasons, except to observe that all the objections raised before the learned single Judge as well as before us can be raised before the Land Acquisition officer in the enquiry under Section 5-A of the Act, we do not find any valid ground for interference. Accordingly, the writ appeal fails and the same is dismissed. No costs.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Secretary to
Backward and Most Backward
Welfare Department,
State of Tamil Nadu,
Fort St. George, Chennai-9.

2.The Tahsildar,
Land Acquisition,
Thoothukudi.

+ one cc to Mr. P. Radhakrishnan, Advocate sr no. 26413

JRG(CO)
NM(28.06.2006)

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/